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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,133	12/18/2006	Ingolf Braune	15283A-008600US	6267
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TOWNSEND AND TOWNSEND AND CREW, LLP			EXAMINER	
TWO EMBARCADERO CENTER			BONK, TERESA	
EIGHTH FLOOR			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/579,133	Applicant(s) BRAUNE ET AL.
	Examiner TERESA BONK	Art Unit 3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 02 June 2008.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-12 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 12 May 2006 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/DP/0656)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 7-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Braune et al. (US PGPUB 2003/0062469).

The applied reference has a common assignee and inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

Braune et al. discloses an apparatus for protecting a dangerous zone of a machine comprise a bending press (Paragraph 0001) against unwanted entries into the zone comprising first (11) and second (13) tool parts mounted for relative movement of the first tool part in a closing direction (15) towards the second tool part and defining an opening gap (Figure 5) between the tool parts, an optoelectronic sensor for monitoring the opening gap including a light emitter (19) for illuminating one of an entire area of the opening gap that is transverse to the

closing direction and a periphery of the area with a light beam (23), a light receiver (21) for receiving the emitted light, and a control unit (evaluation unit) for generating a danger signal when an intrusion into the protected zone (29) is detected, the light emitter and the light receiver being configured so that when the opening gap becomes reduced as the first tool part moves in the closing direction, the protected zone is continuously reduced in the closing direction and so that during further movements of at least one of the first and second tool parts the entire opening gap is within the protected zone (Paragraph 0044).

With regards to claim 9, the light beam has a cross-section at the light receiver which is greater than and completely illuminates the light receiver (Figure 5, Paragraphs 0043 and 0068).

With regards to claim 10, Braune et al. also discloses including means (arms in Figure 5) fixedly securing the sensor to the first tool part for movement with the first tool part during an operating cycle of the first tool part (Paragraph 0043).

With regards to claims 11 and 12, the receiver comprises a location resolving receiver comprises a CMOS-receiver defining a matrix (Paragraph 0032).

Braune et al. also discloses a method of securing a machine having first (11) and second (13) tool parts that define an opening gap (Figure 5) between them, at least the first tool part being movable relative to the second tool part in a movement direction (15) so that during an operating cycle the opening gap is gradually closed, the method comprising generating a protected zone (29) so that it precedes the first tool part and extends over at least a portion of the opening gap in the direction of relative movement, one of an entire area of the protected zone that is transverse to the movement direction and a periphery of the area with an optoelectronic sensor and generating a danger signal (Paragraph 004) in response to a breach of the protected

zone, and when a size of the opening gap in the movement direction becomes smaller than the protected zone in the movement direction, continuously reducing the size of the protected zone in the movement direction of the first tool part so that during subsequent closing movements of the first tool part substantially the entire opening gap is within the protected zone (Paragraph 0044).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 7, 8 and 10 rejected under 35 U.S.C. 102(b) as being anticipated by Fiessler (US PGPUB 2002/0104958).

Fiessler discloses an apparatus for protecting a dangerous zone of a machine comprises a bending press (press brakes) against unwanted entries into the zone comprising first (10) and second (11) tool parts mounted for relative movement of the first tool part in a closing direction towards the second tool part and defining an opening gap (Figure 1) between the tool parts, an optoelectronic sensor for monitoring the opening gap including a light emitter (19) for illuminating one of an entire area of the opening gap that is transverse to the closing direction and a periphery of the area with a light beam (22-24), a light receiver (20) for receiving the emitted light, and a control unit (31) for generating a danger signal when an intrusion into the protected zone (designated as the area where the light beam is shone) is detected, the light

emitter and the light receiver being configured so that when the opening gap becomes reduced as the first tool part moves in the closing direction, the protected zone is continuously reduced in the closing direction and so that during further movements of at least one of the first and second tool parts the entire opening gap is within the protected zone (Paragraph 0021).

With regards to claim 10, Fiessler also discloses including means (15 and 16) fixedly securing the sensor to the first tool part for movement with the first tool part during an operating cycle of the first tool part (Paragraph 0019).

Fiessler also discloses a method of securing a machine having first (10) and second (11) tool parts that define an opening gap (Figure 1) between them, at least the first tool part being movable relative to the second tool part in a movement direction so that during an operating cycle the opening gap is gradually closed, the method comprising generating a protected zone (designated as the area where the light beam is shone) so that it precedes the first tool part and extends over at least a portion of the opening gap in the direction of relative movement, one of an entire area of the protected zone that is transverse to the movement direction and a periphery of the area with an optoelectronic sensor and generating a danger signal (Paragraph 0021) in response to a breach of the protected zone, and when a size of the opening gap in the movement direction becomes smaller than the protected zone in the movement direction, continuously reducing the size of the protected zone in the movement direction of the first tool part so that during subsequent closing movements of the first tool part substantially the entire opening gap is within the protected zone (Paragraph 0021).

With regards to claim 2, Fiessler discloses that during subsequent closing movements, completely deactivating the protected zone after an extent of the protected zone in the movement direction had reached a predetermined minimum (Paragraph 0008).

With regards to claim 3, Fiessler also discloses dividing a movement speed of the first tool part into a relatively faster, first closing speed and a subsequent, relatively slower second closing speed and switching from the first closing speed to the second closing speed on the basis of remaining travel distance for the first tool part established during a preceding test run of the first tool part (Paragraph 0027-0029).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fiessler in view of Haberer et al. (US PGPUB 2002/0017603. Fiessler discloses the invention substantially as claimed except for deactivating at least a portion of the protected zone as a function of the size or shape of the workpiece after the workpiece has entered the protected zone and determining a position of an upper surface of the workpiece during a test run of the first tool part and learning/memorizing the position of the workpiece as a contact point between the part and workpiece. Haberer et al. discloses a method for monitoring an entrance to a hazardous area including deactivating at least a portion of the protected zone as a function of the size or shape of

the workpiece (a workpiece can be considered to be an object in this reference) after the workpiece has entered the protected zone and determining a position of an upper surface of the workpiece during a test run (predetermined signal pattern) of the first tool part and learning/memorizing the position of the workpiece as a contact point between the part and workpiece (Paragraph 0067-0068). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to permit deactivation by the presence of the workpiece and determining of position to create a contact point because applying a known technique to a known device ready for improvement yields predictable results.

Response to Arguments

Applicant's arguments filed on June 2, 2008 have been fully considered but they are not persuasive.

With regards to Applicant's arguments on pages 6-7, the Examiner maintains that the Braune reference discloses the newly claimed limitations "continuously reducing the size of the protected zone...so that during subsequent closing movements...substantially the entire opening gap is within the protected zone." Paragraph 0056, in the Braune reference, states that at the time of shaping is when the monitoring is deactivated; therefore "during subsequent closing movements of the first tool part substantially the entire opening gap is (still) within the protected zone." Braune also discloses the size of the opening gap becoming smaller than the protected zone, as shown from Figure 1a to Figure 1b.

With regards to Applicant's arguments on pages 8-10, the Examiner maintains that the Fiessler reference discloses the newly claimed limitations "monitoring one of an entire area of

the protected zone that is transverse to the movement direction and a periphery of the area.” The Fiessler reference’s vertical beams monitor transversely to the movement of the tool and the periphery of the area (Figure 3). The Examiner maintains that the Fiessler reference discloses the newly claimed limitations “continuously reducing the size of the protected zone...so that during subsequent closing movements...substantially the entire opening gap is within the protected zone.” The Fiessler reference is a press brake which moves continuously, which inherently reduces the size of the protected zones continuously.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TERESA BONK whose telephone number is 571-272-1901. The examiner can normally be reached on M-F 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Derris H Banks/
Supervisory Patent Examiner, Art Unit 3725

Teresa M. Bonk
Examiner
Art Unit 3725